

and therefore renders an evaluation based on an incomplete picture of an individual. Moreover, DeTore fails to provide useful and practical suggestions to improve one's health.

First, DeTore does not make an analysis based on an individual's all-around lifestyle, including both present and future effects, as do claims 1-8. Rather, DeTore makes an assessment on some general existing characteristics. For example, the Examiner cited to a section of the DeTore specification (col. 12, line 37 to col. 13, line 16) to show that the invention considers each problem within a particular case on an individual basis, including the lifestyle of an individual. However, this example is not a complete assessment of an individual's lifestyle. Rather, it is merely an analysis of an individual's dangerous leisure activities and their attendant risks. It is quite common when assessing the insurability of a risk to evaluate an individual's tendency to engage in risky activity. This is even more necessary when one's hobbies include mountain climbing, as the example cited in DeTore. The only other aspects of an individual's lifestyle which are assessed are alcohol use, illicit drug use, and relevant driving history. Even when DeTore inquires into these activities, it does so solely to determine whether or not coverage should be declined. Because a weight is not assigned to these particular activities, they are not part of the risk classification calculus.

In contrast, the present invention as claimed looks at a wide array of lifestyle choices, and assigns a value to each. In particular, claims 1-8 disclose the gathering of information "pertaining to [one's] lifestyle, health, and medical tests." In addition to assessing alcohol and illicit drug use, as does DeTore, the present invention (pursuant to the survey means of claims 1-6 and the method of gathering information disclosed in claims 7-8) evaluates, *inter alia*, the following: use of legal drugs (such as birth control pills, laxatives, and steroids), geographic information (such as the region of the United States in which the individual resides and whether this location is a city or a suburb), exercise habits, nutrition patterns, social/sexual behavior, occupational data, exposure to radiation and chemicals, and stress. By inquiring into a wide variety of categories, the present invention paints a more complete picture of an individual, and can thus provide for a more precise assessment of risks. While DeTore uses existing medical problems and other red flags such as tobacco or illicit drug use to evaluate risks, the present invention recognizes the fact that the penumbra of choices one makes everyday that encompass one's "lifestyle" has a significant impact on one's health, and should serve as an integral part of risk analysis. Only by evaluating the individual as a whole, taking into account present conditions and possible effects in the future, can a proper assessment be made.

Armed with a precise assessment of an individual's health; the present invention (utilizing the messaging means of claims 1-6 and the method for providing messages of claims 7-8) provides the individual with useful recommendations for treatment of health problems and for altering one's lifestyle to ensure better health in the future. Because these recommendations are discrete pieces of information in response to the wide variety of questions asked, they are specific and closely tailored to the needs of the individual. In contrast, the DeTore patent merely provides the individual with general literature on a medical problem. For example, as the Examiner noted, DeTore provides suggestions on how to improve one's health in the "TREATMENT" section of the information supplied to an individual suffering from hypertension (DeTore cols. 19-22). This information, however, is merely a string of general statements on the treatment of hypertension. While it describes different methods for combating hypertension, it fails to make specific recommendations in light of the needs of a particular individual. For example, while DeTore broadly recommends "eliminat[ing] if possible" the risk factor of "elevated cholesterol," the present invention provides a guide for accomplishing this by suggesting the reduction of intake of specific foods. For example, such a message may include the following: "CHOLESTEROL is increased by: 1.) Red meat; 2.) Dairy products; 3.) Nuts; 4.) Shellfish."

Additionally, DeTore only provides an individual with recommendations for the treatment of medical problems. It fails to make suggestions regarding other factors that contribute to poor health, such as certain lifestyle choices, as do claims 1-8. For example, for individuals who spend a lot of time at the beach, the present system will provide a message that provides cautionary information on radiation exposure (e.g., "Use #15 sunscreen"). By failing to provide useful advice on a great number of day-to-day activities, DeTore neglects a bulk of the causes of health problems. Hence, it cannot serve as a mechanism to which an individual can turn when seeking out useful information for modifying lifestyle to attain better health.

A complete survey of an individual's health is not an obvious application of DeTore because it is not in the ordinary practice of risk assessors to inquire into a wide variety of lifestyle choices, let alone to provide recommendations to individuals as to how to reduce insurability risk. As is common in the field of risk assessment, DeTore only focuses on evaluating existing medical problems. It cannot take into consideration lifestyle data as recited in claims 1-8 of the present invention. Likewise, DeTore fails to provide a basis for determining the effect of lifestyle choices on health insurance coverage as shown in the present invention. Finally, DeTore fails to analyze and then provide a user with suggestions for

improving his or her health condition as in all the claims of the present invention.

The present invention is unique because, in calculating insurance risk, it surveys a wealth of information pertaining to an individual's health. Not only does the present invention evaluate the insurance risk, but it also provides suggestions for improving health and decreasing risk. These functions cannot be accomplished by simple mechanisms which evaluate insurability risk, such as DeTore and the other cited prior art.

Accordingly, claims 1-8 are not obvious in view of DeTore et al. and the rejection under 35 U.S.C. § 103 has been overcome and should be withdrawn.

Claims 1-8 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter, and in particular to a method of doing business. This rejection is respectfully traversed.

Please note that Applicant respectfully adheres to the arguments proffered in the October 12, 1994 response, stating that in light of In Re Alappat, 33 F.2d 1526 (Fed. Cir. 1994), the present system is patentable subject matter. This landmark decision reiterated the notion that computers operating pursuant to software can be patentable subject matter because "a general purpose computer in effect becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software." Id. at 1545.

Claims 1-8 of the present invention all contain a general purpose computer specifically programmed to perform particular functions, as in Alappat. In particular, the general purpose computer becomes a unique insurability evaluation system that not only factors in current medical problems, but also takes into account various lifestyle choices of individuals. The system performs a number of particular functions, including surveying individuals to obtain information regarding health, lifestyle and medical tests, assigning weight values to each discrete piece of information, determining level of insurability risk based on weight values, and providing information for improving health and decreasing insurability risk. Pursuant to instructions from software, the general purpose computer becomes a special purpose system that renders a complete analysis of individuals' health, calculates the amount of insurability risk, and serves as a mechanism for dispensing helpful recommendations for improving individuals' health status and for decreasing insurability risk.

Contrary to the finding of the Examiner, the present invention does not lie "in the method of doing business rather than the computer system itself." As argued above and in the October 12, 1994 response, the claimed invention indeed discloses a computer system. It is simply untrue that the claimed system comprises steps which "fall within the penumbra of activities performed by insurance sales personnel." This statement ignores the essence of the present invention, which is to make

insurability risk assessments based on an individual's lifestyle in addition to ordinary red flags such as medical problems and alcohol/tobacco use. The claimed system functions as a full-service health analysis system that not only calculates insurability risk, but also makes recommendations for decreasing this risk by improving one's health conditions. Surely insurance sales personnel do not engage in such activity. The present invention is not merely a method of doing business; it is an intricate apparatus and method for lifestyle risk evaluation and insurability determination.

For the reasons noted above, and those found in the October 12, 1994 response, the rejection under 35 U.S.C. § 101 has been overcome and should be withdrawn.

Acceptance of this application including claims 1-8 is solicited. In the event that the Examiner has any questions pertaining to this Response or the related remarks, in particular, or to this application in general, please telephone the undersigned attorney so that prosecution of this application may be expedited.

Respectfully submitted,



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